

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 19

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte MICHAEL M. THACKERAY,
ROSALIND J. GUMMOW and
ERNEST E. FERG

MAILED

OCT 17 2000

Appeal No. 1998-2269
Application 08/206,792

**PAT. & T.M. OFFICE
BOARD OF PATENT APPEALS
AND INTERFERENCES**

ORDER REMANDING TO EXAMINER

A review of the record indicates that a new ground of rejection was raised in the Examiner's Answer (Paper No. 15 mailed August 4, 1997).

On November 3, 1997, appellants timely filed a Reply Brief (Paper No. 17) in response to the new ground of rejection. The examiner acknowledged the Reply Brief in a Communication (Paper No. 18) mailed January 9, 1998. Section 1208.04 of the Manual of Patent Examining Procedure (MPEP) (6th Ed., Rev. 3, July 1997) states:

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If the reply brief was filed in response to a new ground of rejection in the examiner's answer, the examiner must issue a supplemental answer indicating whether the new ground of rejection has been overcome, and, if it has not, explaining why not.

The Examiner's Communication (Paper No. 18) of January 9, 1998 does not comply with the above requirement.

Accordingly, it is

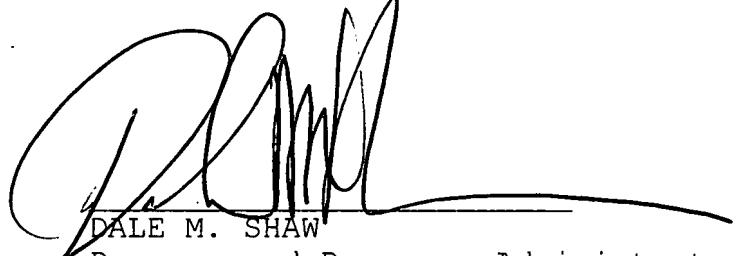
ORDERED that the application is remanded to the examiner for resolution of the following issues:

- proper response to the appellants' Reply Brief (Paper No. 17) filed November 3, 1997 indicating whether the new ground of rejection has been overcome, and, if it has not, explaining why not; and
- for any further action as may be appropriate.

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It is important that the Board of Patent Appeals and Interferences be informed promptly of any action affecting the status of the appeal (i.e., abandonment, issue, reopening prosecution).

BOARD OF PATENT APPEALS
AND INTERFERENCES



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